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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,334	02/07/2001	Scott W. Huffer	9325-36	1473

23973 7590 02/19/2003

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EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

8

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

Applicant(s)

09/778,334

HUFFER ET AL.

Examiner

Art Unit

Sandra M. Nolan

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 25-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims

1. Pursuant to entry of the amendment in the response dated 17 December 2002 (Paper No. 7) following the 16 July office action (Paper No. 5), claims 1-26 are pending.

Election/Restrictions

2. This application contains claims 20-24 drawn to an invention nonelected with traverse as described in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

3. Note the enclosed form PTO-948.

Rejections Maintained

4. The 35 USC 103 rejection of claims 1, 2, 4-11 and 13-19 as unpatentable over Zhang (US 5,616,400) in view of Kurth et al (US 5,548,005) and Dust et al (US 4,889,884), as set out in section 11 of Paper No.5, is maintained for reasons of record.
5. The 35 USC 103 rejection of claims 3 and 12 as unpatentable over Zhang in view of Kurth, Dust et al and Muggli et al (US 6,337,113), as expressed in section 12 of Paper No. 5, is maintained for reasons of record.

Response to Arguments

6. Applicant's arguments filed in Paper No. 7 have been fully considered but they are not persuasive.

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The arguments presented in Paper No. 7 will be responded to in the order in which they were presented.

On page 3, applicants argue that there is no motivation to combine the Kurth teachings with those of the other references because its "laundry list" of applications, which applicants say is recited at col. 8, lines 5-9, does not mention "flexible packaging".

However, Kurth's listing, at col. 8, lines 3+, recites coatings for plastic substrates. Since the Zhang packaging is plastic, coating it with the Kurth coatings is suggested by Kurth. Furthermore, since Zhang states, in its abstract, that its packaging contains "flexible films", the use of the Kurth coatings on flexible plastic films, such as that suggested by the combined references here, is suggested thereby.

Applicants argue, on page 3, that the Kurth coatings do not contain slip agents.

However, slip agents are well-known fillers in plastic and/or coating formulations. If applicants have objective evidence that the slip agents in their coatings are producing unexpected results, they are invited to make it of record.

On page 3, applicants argue that the use of e-beam cured coatings avoids the problem of slip agent migration.

However, avoidance of such migration would be a latent property attained when the coatings of Kurth are used on the films of Zhang, as suggested by the combination of references in the previous office action.

On page 4, applicants argue that Kurth is nonanalogous art because it does not suggest the use of its coatings on flexible packaging.

However, as is discussed above, the use of Kurth's coatings on plastic substrates, such as Zhang's flexible films *is* suggested by the combined references.

On page 4, applicants argue that Kurth is outside of the inventors' field of endeavor.

However, the field of endeavor here is the packaging art, which art includes references that deal with plastic films and coatings thereon.

On page 4, applicants argue that Kurth relates to the field of paints, not flexible packaging.

However, as was explained earlier, the field of packaging included teachings that relate to coatings. Kurth refers to his compositions as "coatings" and "coating compositions". See col. 7, line 67 and col. 8, line 4, as well as Kurth's claims 20-22.

On page 4, applicants argue that claim 10 now recites fixed slip agents.

However, the fixing of slip agents in the coatings of Kurth would be a latent property found in the packaging materials suggested by the references as combined in Paper No. 5.

Final Rejection

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

SMN/smn
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14 February 2003